

**Leading Transformational Change
In the Executive Branch's Personnel Systems**

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Introduction and Summary

The Commission is revisiting a topic that has appropriately occupied its attention for quite a few years: improving the quality of the Executive Branch's workforce.

This hearing comes in the immediate wake of the public release of the California Performance Review's report and recommendations. Those recommendations include far-reaching proposals to reform our personnel system, including the following:

- Consolidation of the Department of Personnel Administration and the non-constitutionally mandated functions of the State Personnel Board;
- Creation of a unit within the DPA to engage in systematic planning on an enterprise-wide basis for the Executive Branch's workforce needs;
- Creation of an organized and well-supported recruitment program that includes, among other things, re-establishing a recruitment presence on the state's college campuses;
- Creation of more comprehensive and cost-effective training opportunities; and,

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- Establishment of a true performance-based evaluation and incentive program.

These and other personnel-related recommendations from the CPR essentially represent “best practices” that have been successfully implemented by both public and private sector organizations. The recommendations are well grounded in what other organizations are already doing to improve employee well-being and performance.

The issue we should be discussing is not *whether* those recommendations are worthy of being implemented – they clearly are – but, rather, *how* to go about securing adoption and implementation.

The question of *how* to achieve this transformation in the Executive Branch’s personnel management and administration is not inconsequential. These changes cannot be implemented by the mere stroke of a pen. We will face significant challenges to adoption of best practices in personnel management and administration because of the predictable organizational resistance to change that will quickly surface. We will need very strong, consistent gubernatorial leadership over a prolonged period of time, a well-constructed change management process and sustained engagement and communication among *all* of the major stakeholders.

The Scope of the California Performance Review’s Recommendations

It is important to recognize just how fundamental and far-reaching CPR’s recommendations truly are. California’s Executive Branch is best characterized as a process-driven and process-dominated organization. In recommendation after recommendation, and not just in its personnel-related recommendations, CPR advocates a results, performance and outcome orientation.

In addition, CPR’s recommendations, if fully implemented, would actually establish a much more inter-connected and integrated Executive Branch of government. That is also a substantial change from the status quo.

For example, when information technology analysts consider the organization of California’s Executive Branch, we often speak in terms of “silos of government.” This is intended to describe a lack of communication and coordination across agency boundaries. Actually, the word “silo” may be charitable since “silos” at

least suggests that we may be reasonably well organized vertically. But in California state government, it is much worse. We are not just silos organized by agencies or even by departments. We are, instead, a disorganized conglomeration of departments, divisions within departments, boards, commissions and program units. The dictionary definition of conglomeration, a “mass of miscellaneous things,” pretty well describes the Executive Branch of state government.

In its recommendations to reorganize the Executive Branch, and to establish branch-wide procurement systems, branch-wide budget and fiscal systems, branch-wide information technology systems, and branch-wide personnel systems, the CPR in effect is proposing that we transform the Executive Branch from a “mass of miscellaneous things” into a unified organization – a true Executive Branch.

When you combine CPR’s goal of creating a unified Executive Branch with its over-arching theme of converting that organization from a process-oriented entity to a results-oriented entity, you have the recipe for a transformational change in state government. The magnitude and nature of the change is important in appreciating the challenges we will face in making personnel reforms work in California state government.

The Nature of Transformational Organizational Change

A Brief Review of Organizational Change Theories

Historically, the origins of organizational change analysis can be traced back to Lewin’s (1948) seminal work in the area of group dynamics. Lewin created a model of change based on a simple idea: Organizations tend to become frozen in place. To introduce change, the organization must “unfreeze” itself. After change has occurred, the organization is likely to “refreeze” in its new configuration.

Lewin’s unfreezing-change-freezing model is one of the most often referenced theories of change in the organizational literature (e.g., Foster, 1989). Lewin’s model has been successful in part because of its simplicity and generality. It provides an explanation for why change is so difficult. Unfreezing requires significant energy, and that energy must be spent even *before* any changes can occur.

Scholars have also focused upon the magnitude of a proposed change as one of the critical determinants of the possibility of success. The continuum of change ranges

from (on the low end of the scale) incremental, first-order change to (on the high end of the scale) strategic, second-order change. Incremental change refers to relatively small, routine changes that do not fundamentally disrupt continuity within the organization (Pettigrew, 1987). Strategic change refers to “nonroutine, nonincremental, and discontinuous change which alters the overall orientation of the organization and/or components of the organization” (Tichy, 1983, p. 17). Pettigrew (1987) describes revolutionary change as change that is characterized as affecting all areas in the organization whereas substantial or stabilizing change are not as encompassing. Second-order changes are never simple to design and implement successfully and can take much longer to accomplish than expected (Miller and Friesen, 1982). Resistance to second-order changes will, as a general rule, be higher than resistance to only incremental change.

It is clear that CPR’s recommendations encompass second-order, strategic changes throughout the Executive Branch.

Organizational Change in Rule- and Process-Bound Organizations

Recent doctoral work focusing on organizational change in rule- and process-bound organizations – organizations where the status quo is frozen in place by statutes, rules, regulations and organizational directives – suggests that transformational change in such organizations requires particularly strong change management, a particularly robust program of planned communication among stakeholders and sustained leadership at the highest levels of the organization (Kelso, 2000).

According to this work, conformity and variation in rule- and process-bound organizations can best be understood on a seven-level scale ranging from maximum variability in organizational behavior, where there are no rules at all, to maximum conformity in organizational behavior, where there are very specific orders and dictates that control everything. The full scale is as follows:

[Maximum Variability]

1. No Rules (“State of Nature” or Pre-Organizational)
2. Shared Norms
3. Localized Enforcement of Group Norms

[Formal Recognition of Organization]

4. Organizational Norms & Organizational Enforcement
5. General Standards of Behavior

6. Rules
7. Specific Orders
[Maximum Conformity]

In this conformity-variation (“CV”) model, the seven different levels of conformity and variation are associated with seven different types of organizing regulations. The first level is the pre-organizational state of nature where there are no rules at all, and there is maximum variation. The second level consists of “shared norms;” total variation no longer exists, and there is some voluntary agreement about norms of behavior, but the formality of organizational behavior has not yet developed, and there is no enforcement mechanism. Next is the level of “localized enforcement of group norms,” where enforcement of shared norms and rules within small groups begins. Organizational law still does not exist at this level since the only thing enforced are very localized rules of behavior. There is not yet a fully developed organization. The fourth level is “organizational norms and organizational enforcement,” in which organizational conformity is recognized and valued more than variation, and rules governing an organization begin to become formalized through a system of rulemaking and enforcement. “General standards of behavior” is the fifth level. A standard is a type of legal rule that contains flexible criteria for its application. Standards permit the exercise of informed discretion in their application. “Rules” are the next level since rules are less flexible than standards and impose greater conformity. Finally, specific orders directing very specific behaviors represent the most extreme instances of organizational conformity.

The CV model is a useful overlay on some of the more general organizational change models described above. In particular, incremental, first-order changes generally involve modifications only at CV levels (4) through (7), and the more incremental and minor the change, the more likely it is that only the highest CV levels need to be affected. The smallest change is likely to affect only level (7), specific organizational orders.

By contrast, strategic or revolutionary, second-order change contemplates changes at virtually all CV levels. There may even be a symbolic retreat to almost a state of nature where basic organizational norms and values can be reassessed, new shared norms can be developed, and agreements on those norms can be reached, thereby creating new group norms and rules. It is after these fundamentals can be agreed upon that a “new” or “reconceptualized” or “refounded” organization develops,

which is what happens at CV levels 3 (group norms and rules) and 4 (formally established organizations).

In the words of the CV model, transformational second-order change involves the formation of a conceptually new organizational framework based on new shared and group norms and rules, while first-order change does not involve a conceptually new organization and, instead, is limited to changes to organizational standards, rules and specific orders.

One of the implications of the CV model of change is that successful second-order change begins with or encompasses a reconsideration of basic organizational culture and values. This is because CV levels (4) through (7) assume a shared organizational context based on mutual communicated understandings. If a second-order change effort were to begin at levels (4), (5), (6) or (7), the desired changes at those levels would conflict with the organizational framework established by the culture and values (i.e., levels (1) through (3)).

In terms of communication and change management, organizational dialogue about culture and values will be at the forefront of second-order change efforts, and that dialogue will be characterized by generality, a focus on organizational fundamentals, and heightened resistance from all corners of the organization (since a discussion about fundamentals potentially affects everyone in the organization in very basic ways).

After agreement has been reached on new shared norms and group rules, the change effort can turn to an examination of the specific standards, rules and orders that govern the day-to-day operation of the organization. Communication at CV levels (4) through (7) will be characterized by greater specificity and an increase in formal organizational documents that sustain and govern the organization (e.g., statutes, regulations, organizational handbooks, training manuals and workplace rules).

An Example of Transformation in Public Sector Personnel Systems

We have in California state government a very good, recent example of what is required successfully to navigate the choppy waters of transformational change in a public sector personnel system. This example is consistent with the CV model set forth above since, as will be described below, all stakeholders were engaged in

conversations about truly fundamental organizational issues as a prelude to the implementation of transformational organizational change.

The California Judicial Council, the policy-making body for California's courts, has been embarked on a decade-long voyage to transform California's trial courts from purely local entities to full-blown members of a statewide judicial system. Major elements of that change program have included the conversion from local funding to statewide funding, the unification of the superior and municipal courts and the passage of the trial court facilities act.

A critical piece in this transformation was the enactment in 2000 of the Trial Court Employment Protection and Governance Act (Gov't Code §§ 71600 et seq.) and its subsequent implementation. The act established a completely new structure and relationship between trial court employees, the trial courts and the state. It was a change equally as fundamental and significant as the changes recommended by the CPR to the Executive Branch's personnel systems.

Although passage of the act was a critical step in the organizational change process, it is important to note that the act came before the Legislature only *after* several *years* of highly structured and intense conversations and consensus-building among stakeholders. The Lockyer-Isenberg Trial Court Funding Act of 1997 included provisions creating a "Task Force on Trial Court Employees" ("Task Force"). The Task Force was charged with "recommending an appropriate system of employment and governance for trial court employees" (Gov't Code § 77600) that would have "uniform statewide applicability and promote organizational and operational flexibility in accordance with Section 77001" (Gov't Code § 77605(a)).

Task Force membership was specified by statute, Gov't Code § 77601, and it included all of the principal stakeholders, as follows:

- Four representatives of the trial courts, appointed by the Chief Justice, representing two urban, one suburban, and one rural court;
- Four representatives of counties, appointed by the Governor from a list of nominees submitted by the California State Association of Counties;
- Three representatives appointed by the Senate, of which two represent trial court employee organizations;
- Three representatives appointed by the Speaker of the Assembly, of which two represent trial court employee organizations;

- The Director of the Department of Personnel Administration, or a designee;
- The Chief Executive Officer of CalPERS, or a designee;
- The Director of Finance, or a designee; and
- An appellate court justice to serve as a nonvoting chair.

The Task Force was appointed on May, 7, 1998, and met for the first time on June 4, 1998. It submitted several interim reports before issuing its 200-page-plus final report on December 31, 1999. The Task Force continued meeting throughout most of 2000 to consider and review draft legislation to implement the Task Force's recommendations.

Because of the magnitude of change being considered, Task Force meetings were extraordinarily broad in their scope. Discussions focused on broad organizational principles dealing with the nature and purpose of the courts, the organizational culture of the trial courts, the general relationship between courts and court employees and public sector organizations and public sector employees, and the role of personnel systems in furthering organizational goals and protecting employee interests. These important but wide-ranging preliminary conversations set the stage for much more detailed discussions and agreements on specific issues.

The Task Force also adopted a well-defined consensus process to ensure that all interests were heard and no one interest dominated. The Task Force's final report characterizes the importance of its elaborate deliberative processes as follows:

“The processes used by the task force in its meeting structure, decision making, communication with the public, and model development represent a significant investment of time and effort by the task force. While time consuming, these methods enabled the task force to reach its objectives in a manner that met the concerns of its diverse constituency. Over the course of close to 20 meetings and many decisions, the task force consistently managed to reach consensus on almost all issues. In fact, all of the task force's final trial court employee personnel system recommendations were unanimously adopted without dissent.” Task Force on Trial Court Employees, *Final Report*, p. 15 (Dec. 31, 1999).

The enactment of the Trial Court Employment Protection and Governance Act did not end the change process. To the contrary, there were several additional years of extremely intense negotiation and adjustments to the new system, as well as the

acquisition of new information technology to support the new system. Indeed, the change process continues to this day as certain critical issues that were left unresolved by the act are the focus of ongoing discussions by stakeholders.

The Challenge of Leadership

In light of the above observations, transforming the Executive Branch's personnel system as suggested by the CPR is going to require sustained leadership by all of the major stakeholder groups. This means, at a minimum, that we need leadership from the Governor, the Legislature, public employee unions and public employees.

By virtue of his constitutional position as the holder of the "supreme executive power of the State," the Governor's leadership is undoubtedly most critical. Only the Governor has the ability to hold the attention of the other stakeholders at a high enough level for a sufficient length of time for the transformational changes envisioned by CPR to take hold. This was certainly true of the judiciary's transformational change effort. It was only by virtue of sustained leadership by Chief Justice Ronald M. George and William Vickrey, Administrative Director of the Courts, that substantial reforms came to the California judiciary.

The Little Hoover Commission has an important role to play in this effort. It has the credibility of having studied and written about personnel reform issues for a lengthy period of time and in multiple reports. And it has the legitimacy that comes from experience with and independence from the usual political forces that weigh in on public policy making. The Little Hoover Commission can light the way for stakeholder groups, showing how it is possible to move forward dramatically to improve the Executive Branch's workforce.

References

Foster, M. (1989). The historical perspective. In McLennan (Ed.), Managing organizational change (pp. 34-37). New Jersey: Prentice Hall.

Kelso, K. (2000). Conformity and Variation within the Legal System: An Organizational Communication Analysis. Ph.D. Dissertation, University of Texas at Austin, on file with Author.

Lewin, K. (1948). Resolving social conflicts: Selected papers on group dynamics. New York: Harper.

Miller, D., & Friesen, P. H. (1982). Structural change and performance: Quantum versus piecemeal-incremental approaches. Academy of Management Journal, 25(4), 867-892.

Pettigrew, A. M. (1987). Context and action in the transformation of the firm. Journal of Management Studies, 24(6), 271-289.

Tichy, N. M. (1983). Managing strategic change: Technical, political, and cultural dynamics. New York: John Wiley & Sons.